Wisconsin Medicaid - Administrative Code
Definition and identification of experimental services
HFS 107.035

(1) DEFINITION. "Experimental in nature," as used in s. HFS 107.03 (4) and this section, means a service, procedure or treatment provided by a particular provider which the department has determined under sub. (2) not to be a proven and effective treatment for the condition for which it is intended or used.

(2) DEPARTMENTAL REVIEW. In assessing whether a service provided by a particular provider is experimental in nature, the department shall consider whether the service is a proven and effective treatment for the condition which it is intended or used, as evidenced by:

(a) The current and historical judgment of the medical community as evidenced by medical research, studies, journals or treatises;

(b) The extent to which medicare and private health insurers recognize and provide coverage for the service;

(c) The current judgment of experts and specialists in the medical specialty area or areas in which the service is applicable or used; and

(d) The judgment of the MA medical audit committee of the state medical society of Wisconsin or the judgment of any other committee which may be under contract with the department to perform health care services review within the meaning of s. 146.37, Stats.

(3) EXCLUSION OF COVERAGE. If on the basis of its review the department determines that a particular service provided by a particular provider is experimental in nature and should therefore be denied MA coverage in whole or in part, the department shall send written notice to physicians or other affected certified providers who have requested reimbursement for the provision of the experimental service. The notice shall identify the service, the basis for its exclusion from MA coverage and the specific circumstances, if any, under which coverage will or may be provided.

(4) REVIEW OF EXCLUSION FROM COVERAGE. At least once a year following a determination under sub. (3), the department shall reassess services previously designated as experimental to ascertain whether the services have advanced through the research and experimental stage to become established as proven and effective means of treatment for the particular condition or conditions for which they are designed. If the department concludes that a service should no longer be considered experimental, written notice of that determination shall be given to the affected providers. That notice shall identify the extent to which MA coverage will be recognized.

HFS 107.035 — Annot. History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

DHFS Summary of the Process for Exceptions for Experimental Services

Children's Long Term Support Home and Community-Based Waivers (CLTS Waivers)

If a provider requests reimbursement for the provision of a service or device considered experimental per Medicaid Administrative Code HFS 107.035, the provider must meet the criteria outlined below in order for the request to be granted under the CLTS Waivers. If an exception is granted, that approval applies only to the specific child for which the exception was requested. In other words, an approval does not apply to a service in and of itself; it must be approved for the individual child.

CRITERIA FOR REQUESTING AN EXCEPTION FOR EXPERIMENTAL SERVICES

1. The provider must provide, in writing to the Bureau of Long Term Support (BLTS), a clinical justification for the experimental service or device.

2. The provider must include in their clinical justification a rationale for how the experimental service or device will be of value to the child in relationship with any other services and supports.

3. The provider must include a second professional opinion as to the clinical justification for the service or device from a colleague who meets the standard for an independent provider of Intensive In-Home Autism Treatment Services under the CLTS Waivers.

4. The provider must attest, in a signed statement, that the service or device will pose no risk to the health or safety of the child.

5. The child's family must attest, in a signed statement, that they understand that the service or device is experimental in nature, and thus, are willing to accept liability for all risks in having this service delivered to their child.

The Bureau of Long Term Support reviews each request to determine if the above criteria have been satisfactorily achieved prior to granting an exception. If an exception is granted, the provider, family, and county representative are informed in writing.

The provider is required to submit an assessment of the affects of the service or device each year at the time of the child's annual eligibility review, or more frequently if noted as a condition of approval, as long as the service or device continues to be delivered to the child, unless, per Medicaid Administrative Code HFS 107.035(4), the service is no longer considered experimental.

If the Bureau of Long Term Support denies a request for an exception, the Bureau provides a written explanation for the denial to the provider with copies for the family and the county representative.